

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327
THIS DOCUMENT RELATES TO ETHICON WAVE 1 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**PLAINTIFFS' MOTION TO EXCLUDE THE GENERAL CAUSATION OPINIONS
AND TESTIMONY OF BRIAN J. FLYNN, MD**

Pursuant to Federal Rules of Evidence 702 and 703 and *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), Plaintiffs move this Court to exclude the testimony of Defendant Ethicon, Inc.'s expert witness Brian J. Flynn, M.D. Plaintiffs incorporate their Memorandum in Support of Plaintiffs' Motion to Exclude the Testimony of Brian J. Flynn, M.D., and also the following exhibits:

- A. List of cases to which this Motion applies
- B. TVT-R Report of Dr. Flynn (dated 2/26/16)
- C. TVT-O Report of Dr. Flynn (dated 2/26/16)
- D. TVT-S Report of Dr. Flynn (dated 2/26/16)
- E. Prolift Report of Dr. Flynn (dated 2/29/16)
- F. Prolift+M Report of Dr. Flynn (dated 2/26/16)
- G. Transcript of Dr. Flynn Deposition (4/19/16)
- H. Transcript of Dr. Flynn Deposition (4/14/16 11:52 a.m.)
- I. Transcript of Dr. Flynn Deposition (3/24/16)
- J. Transcript of Dr. Flynn Deposition (4/14/16 8:42 a.m.)
- K. Reliance List of Dr. Flynn
- L. Transcript Excerpts from Dr. Flynn Deposition (10/30/14 139: 7-10)
- M. Transcript Excerpts from Dr. Flynn Deposition (8/29/14 9:15-17, 9:22-25)
- N. Transcript Excerpts from Dr. Flynn Deposition (1/7/15 65:1-8)
- O. TVT-O IFU (with redline changes)

As shown in Plaintiffs' Memorandum in Support of its Motion to Exclude the Proposed Testimony of Brian Flynn, M.D., which Plaintiffs are filing contemporaneously with this

Motion, as well as the accompanying exhibits, Dr. Flynn should not be allowed to testify. His opinions should be excluded because: (1) he admits he is not qualified to offer a number of opinions; (2) he failed to review much of the relevant literature; (3) he failed to review literature that was inconsistent with his opinions; and (4) he offers impermissible legal opinions and broad unsubstantiated statements that are not the proper subject of expert testimony. As Dr. Flynn's opinions are not the product of a reliable methodology and exceed his qualifications, his testimony should be excluded. For these reasons, Dr. Flynn's opinions do not satisfy the requirements for expert witness testimony as set forth in Rule 702 and under the *Daubert* standard and he should not be allowed to testify as an expert witness.

WHEREFORE, Plaintiff requests that the Court grant the requested Motion to Exclude the Proposed Testimony of Brian Flynn, M.D.

Respectfully submitted this 5th day of May, 2016.

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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing **PLAINTIFFS' MOTION TO EXCLUDE THE GENERAL CAUSATION OPINIONS AND TESTIMONY OF BRIAN FLYNN, M.D.** on May 5, 2016, using the Court's CM/ECF filing system, thereby sending notice of said filing to all counsel.

/s/ Sarah Peasley
Sarah Peasley